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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,828	07/01/2003	Paula L. Nygard	88-2022A	3051

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LYONDELL CHEMICAL COMPANY
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EXAMINER

NUTTER, NATHAN M

ART UNIT PAPER NUMBER

1711

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,828

Applicant(s)

NYGARD ET AL.

Examiner

Nathan M. Nutter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams et al, newly cited.

The reference to Williams et al teaches the manufacture of films, that may be tubular blown films, wherein the blend may comprise "(i) a linear low density polyethylene (LLDPEI), and (ii) a high molecular weight polyethylene....(that may comprise) a high molecular weight, medium density polyethylene (HMW-MDPE); in a weight ratio of (i)/(ii) greater than or equal to 50/50," as herein claimed. Note the Abstract and column 2 (lines 6-21) for the constituents employed and their overlap in compositional percentages at "20 wt % to about 80 wt % of HMW MDPE" and "20 wt % to about 80 wt % of LLDPE", as recited in each of claims 1-3 and 12. The LLDPE is taught as having "a density within the range of about 0.90 to about 0.925 g/cc and an MI₂ within the range of about 0.50 to about 50

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dg/min.," that embraces directly the recitations of claim 4. Since the reference teaches the inclusion of the HMW-MDPE as recited in claim 1, the inclusion of a high molecular weight high density polyethylene (HMW-HDPE) is not necessary, and claim 5 is, thus, anticipated. The HMW-MDPE is taught to have "a density of from about 0.92 to about 0.944 g/cc (and) a melt index MI_2 from about 0.01 to about 0.5 dg/min" which values are clearly within those parameters as recited in claims 6, 15 and 16. Note Example 1 at column 5 for the production of films having the thicknesses as recited in instant claims 7-9 and 17-19 and Table 1 at column 6 for the tear strengths, as recited in claims 10, 11, 20 and 21. Note column 3 (lines 48 et seq.) for the additional monomers that may be employed in the LLDPE, including those recited in claims 13 and 14.

Claims 1-8, 10-18 and 20-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Williams, newly cited.

The reference to Williams teaches the manufacture of films, that may be tubular blown films, wherein the blend may comprise "(i) a linear low density polyethylene (LLDPEI), and (ii) a high molecular weight polyethylene....(that may comprise) a high molecular weight, medium density polyethylene (HMW-MDPE); in a weight ratio of (i)/(ii) greater than or equal to 50/50," as herein claimed. Note the Abstract and column 2 (lines 15-29) for the constituents employed and their overlap in compositional percentages at "20 wt % to about 80 wt % of HMW MDPE" and "20 wt % to about 80 wt % of LLDPE", as recited in each of claims 1-3 and 12. The LLDPE is taught as having "a density within the range of about

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0.90 to about 0.93 g/cc and an MI_2 within the range of about 0.50 to about 50 dg/min.,” that embraces directly the recitations of claim 4. Since the reference teaches the inclusion of the HMW-MDPE as recited in claim 1, the inclusion of a high molecular weight high density polyethylene (HMW-HDPE) is not necessary, and claim 5 is, thus, anticipated. The HMW-MDPE is taught to have “a density of from about 0.92 to about 0.94 g/cc” and a “melt index MI_2 from about 0.01 to about 0.5 dg/min” which values are clearly within those parameters as recited in claims 6, 15 and 16. Note column 2 (lines 39-64). Note Table 1 at columns 5 and 6 for the production of films having the thicknesses as recited in instant claims 7-9 and 17-19 and for the tear strengths, as recited in claims 10, 11, 20 and 21. Note column 3 (line 53) to column 4 (line 8) for the additional monomers that may be employed in the LLDPE, including those recited in claims 13 and 14.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams, cited and for the reasons set out above.

The recitations of film thicknesses in claims 9 and 19 would clearly be within the skill of a practicing artisan desirous of a thin film dependent upon

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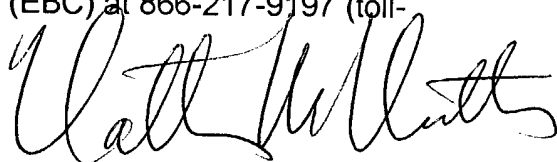
specific end use. The reference shows thicknesses of 1 mil and 0.80 mil at Table 1, columns 5 and 6, and teaches the same at column 4 (lines 46 et seq.). A teaching of "at least about 10% was held to be anticipated by a teaching of a content not to exceed about 8%", giving wide latitude to the term "about." See In re Ayers, 154 F 2d 182, 69 USPQ 207 (CCPA 1965). As such, the instant claims are deemed to be obvious over the teachings of Williams.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Nathan M. Nutter", is positioned above the printed name.

Nathan M. Nutter
Primary Examiner
Art Unit 1711

nmn

4 December 2004